

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

JONATHAN KANNAIR and)	
JONATHAN KANNAIR, INC.)	
)	
Plaintiffs)	Civil Action
)	
v.)	
)	
GAMESTOP, CORP.,)	
)	
Defendant)	
)	

**COMPLAINT AND
DEMAND FOR TRIAL BY JURY**

1. Plaintiff, JONATHAN KANNAIR (“Kannair”), is a professional photographer who resides in Boston, Suffolk County, Commonwealth of Massachusetts.
2. Plaintiff, JONATHAN KANNAIR, INC. (“JK, Inc.”) is a corporation duly organized by law having a principal place of business at 717 Atlantic Avenue, Suite 6B, Boston, Suffolk County, Massachusetts 02111. Kannair is the sole officer and sole director of JK, Inc. and he regularly licenses his photographs through JK, Inc.
3. Defendant, GAMESTOP, CORP. (“GameStop”) is a corporation duly organized by law, having its principal executive offices at 625 Westport Parkway, Grapevine, Texas 76051. GameStop is a video game, consumer electronics and wireless services retailer with more than 6,600 stores worldwide. GameStop maintains dozens of stores in Massachusetts including a

store at 40 Winter Street, Boston, Massachusetts. GameStop also owns and publishes a print and online computer and video game magazine under the name, GAME INFORMER Magazine. As used herein, GameStop includes all actions taken by or on behalf of GAME INFORMER Magazine.

4. This Action is brought under the Copyright Act of the United States as amended, 17 U.S.C. §§ 101 et seq., to redress the infringement of a copyrighted photograph taken by a professional photographer. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §1338(a), and proper venue exists against the Defendant under 28 U.S.C. §1400(a).

5. In or around 2009, at the request of GameStop, Kannair photographed a person by the name of Ralph Baer. Ralph Baer is generally known as the father of video games. Kannair photographed Mr. Baer with one of the original gaming systems that Baer created. A copy of Kannair's photograph of Ralph Baer (the "Baer Photograph") is attached hereto as Exhibit A and incorporated herein by reference.

6. The Baer Photograph was licensed by JK, Inc. to GameStop in 2009, for use in one issue of GAME INFORMER Magazine for interior use only, for one-time North American English language print use. A copy of the invoice and license agreement is attached hereto as Exhibit B and is incorporated herein by reference. The Baer Photograph was published in GAME INFORMER Magazine in 2009.

7. Kannair owns and continues to own all rights in and to the Baer Photograph including the copyright thereto. The Baer Photograph was registered with the U.S. Copyright Office under Copyright Registration Number VAu 1-081-240. A copy of the Certificate of Registration is attached hereto as Exhibit C and is incorporated herein by reference.

8. In or around December 2014, GameStop used the Baer Photograph again in the December 2014, on-line edition of Game Informer Magazine (the "Magazine") but this time, without a license or permission from Kannair or JK, Inc. A copy of the Baer Photograph as it was used in the on-line edition of GAME INFORAMER Magazine is attached hereto as Exhibit D and is incorporated herein by reference.

9. The use of the Baer Photograph by GameStop in GAME INFORMER Magazine in 2014, without a license or permission from Kannair or JK, Inc., constitutes copyright infringement for which Kannair and JK, Inc. are entitled to their damages.

WHEREFORE, Plaintiffs, Jonathan Kannair and Jonathan Kannair, Inc., demand judgment against Defendant, GameStop, Corp, as follows:

- a) That Defendant be required to deliver up for impoundment all copies of the Photograph in all forms whatsoever, which are in Defendant's possession or under its control, including all copies in all versions and media including film, and copies in magnetic, electronic and digital formats;
- b) That Defendant be required to pay Plaintiffs such actual damages as Plaintiffs have sustained in consequence of Defendant's infringement of Kannair's copyright to the Baer Photograph and to account for all gains, profits and advantages derived by Defendant from its use and the infringement of Kannair's copyrighted Photograph;
- c) In lieu of Plaintiffs' actual damages and Defendant's profits, that Defendant be required to pay to Plaintiffs such Statutory Damages as to the Court shall appear just within the provisions of the Copyright Act in a sum not less than \$750 nor more than \$30,000 per Photograph, or if the Court finds that the infringements were committed willfully, such statutory

damages as to the Court shall appear just within the provisions of the Copyright Act in a sum up to and including \$150,000;

- d) That Defendant pay to Plaintiffs their costs together with reasonable attorney's fees in an amount to be determined by the Court;
- e) That Plaintiffs have such other and further relief as is deemed to be just and proper.

PLAINTIFFS CLAIMS TRIAL BY JURY

Jonathan Kannair, and
Jonathan Kannair, Inc.,
By their attorney,

March 6, 2015

/s Andrew D. Epstein
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